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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/684,387

10/04/2000

David C. Gelvin

08-880-US7

9822

20306

7590

04/16/2010

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EXAMINER

HUSSAIN, IMAD

ART UNIT

PAPER NUMBER

2451

MAIL DATE

DELIVERY MODE

04/16/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/684,387	<b>Applicant(s)</b> GELVIN ET AL.	
	<b>Examiner</b> IMAD HUSSAIN	<b>Art Unit</b> 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,9-14,16,20-24,27-38,40,41,43,45-53,56-60 and 63-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4,9-14,16,20-24,27-38,40,41,43,45-53,56-60 and 63-65 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12 April 2010</u> .   | 6) <input type="checkbox"/> Other: _____                          |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 12 April 2010 has been entered.

***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 12 April 2010 was filed after the mailing date of the Notice of Allowance on 11 January 2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

- The sole reference cited on the IDS is US Patent 6038436 (Mark D. Priest, hereinafter *Priest*).
- Priest teaches a method of conserving power in battery-operated radios by means of buffering messages and comparing said buffered messages to newly received messages in order to make a determination as to whether change power modes.
- Priest fails to rectify the omissions of the prior art as applied to the pending claims, as described in Applicant Arguments/Remarks dated 04 November 2009, pages 17-28, regarding claims 1-4,9-14,16,20-24,27-38,40,41,43,45-49,56 and 63-65 and

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Applicant Arguments/Remarks dated 01 July 2009, pages 27-29, regarding claims 50-53 and 57-60.

### ***Specification***

3. The disclosure is objected to because of the following informalities: pages 1 and 2 of the specification reference numerous patent applications by application number or "to be assigned-reference number". Any such references to issued patents must include the issued patent numbers. Any references to "to be assigned-reference numbers" that have not resulted in issued patent numbers must refer to the application numbers assigned by the USPTO.

Appropriate correction is required.

### ***Allowable Subject Matter***

4. Claims 1-4, 9-14, 16, 20-24, 27-38, 40, 41, 43, 45-53, 56-60 and 63-65 are allowed. Applicant Arguments/Remarks dated 04 November 2009, pages 17-28, regarding claims 1-4,9-14,16,20-24,27-38,40,41,43,45-49,56 and 63-65 and Applicant Arguments/Remarks dated 01 July 2009, pages 27-29, regarding claims 50-53 and 57-60 are persuasive and constitute reasons for allowance of said claims.

5. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

**Conclusion**

6. This application is in condition for allowance except for the following formal matters:

Pages 1 and 2 of the specification reference numerous patent applications by application number or “to be assigned-reference number”. Any such references to issued patents must include the issued patent numbers. Any references to “to be assigned-reference numbers” that have not resulted in issued patent numbers must refer to the application numbers assigned by the USPTO.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm’r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IMAD HUSSAIN whose telephone number is (571) 270-3628. The examiner can normally be reached on weekdays from 0800 to 1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/I. H./

Imad Hussain

Examiner, Art Unit 2451

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451